

HALL & ASSOCIATES

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June 21, 2013

VIA ONLINE FOIA SYSTEM

Regional Freedom of Information Officer
U.S. EPA, Region I (OARMO 1-6)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
E-mail: r1foia@epa.gov

RE: Freedom of Information Act Request for Records Associated with the June 21, 2013 meeting between Great Bay Municipal Coalition, EPA Region 1, and New Hampshire Department of Environmental Services

To Whom This May Concern:

This is a request for public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2. This request is submitted by Hall & Associates on behalf of the Great Bay Municipal Coalition ("the Coalition"). For purposes of this request, the definition of "records" includes, but is not limited to, documents, letters, memoranda, notes, and e-mail messages sent by EPA personnel from EPA accounts and any private accounts regarding EPA matters.

On June 21, 2013, representatives from the Coalition, EPA Region 1 ("R1"), and New Hampshire Department of Environmental Services ("NHDES") were scheduled to meet in Boston to discuss the updated peer review pertaining to the Great Bay nutrient criteria. The morning of the meeting, representatives from the Coalition received a phone call from NHDES stating that if their special counsel, Hall & Associates ("H&A"), attends in person or via teleconference, both NHDES and EPA R1 agreed that an open and candid discussion with the Coalition would not occur. However, NHDES and EPA presented no objection or concern regarding the Coalition's New Hampshire counsel attending the meeting.

This request seeks any and all records, including meeting minutes, e-mails, or documents between NHDES and EPA or within EPA regarding:

- 1) H&A attending or listening to the June 21, 2013 meeting between NHDES, EPA R1, and the Coalition; and,
- 2) The proposed agreement by NHDES and the Coalition to conduct a new peer review (see attached).

Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsive to this request and send them to the undersigned at the above address. If any responsive records are withheld based upon any asserted privilege, please identify the basis for the non-disclosure. Moreover, to the extent EPA asserts that a document, or portions thereof, is privileged, the Agency is still responsible for producing the non-privileged portions of that document. If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that agency resources are conserved and only the necessary documents are reproduced.

Sincerely,

/s/ John C. Hall
JOHN C. HALL

Cc: Great Bay Municipal Coalition

Peer Review Agreement
between Dover, Portsmouth, Rochester, NH (the "cities")
and
the Department of Environmental Services (DES)

1. The Peer Review shall be of the New Hampshire DES Great Bay Nutrient Criteria Proposal dated 2009.
2. Within 60 days, DES and the cities will jointly decide the method by which to select peer reviewers, consistent with accepted guidelines for avoiding undue bias or direct/indirect economic interest in the outcome.
3. Within 90 days, DES and the cities will select three independent peer reviewers. Those reviewers selected must be able to complete their review and issue their report or reports within 5 months of receipt of the parties' written submissions. The reviewers must have demonstrated expertise on nutrient fate and transport in aquatic systems, with particular expertise on estuarine systems, as well as accepted methodologies of environmental data assessment. The parties agree to mediate any issues involving selection of the peer review panel. The cost of such mediation shall be covered by the cities. DES will not subpoena or sue the peer reviewers in connection with the review.
4. Within 120 days, DES and the cities will propose charge questions to submit to the peer reviewers, and attempt to reach agreement on the same. If the parties are unable to reach agreement on appropriate charge questions to the peer reviewers, then a total of ten questions (five from DES and five from the cities) will be submitted and the peer reviewers will address each of the questions presented.
5. The peer review will be conducted in general compliance with the EPA Handbook subject to whatever modifications may be agreed to by the parties and peer review panel. In general, it is contemplated that the process will consist of written submissions to the peer review panel and a public comment period. Written comments will be accepted throughout the comment period. DES will provide all of the underlying data and analyses to the reviewers immediately upon selection of the panel. At the discretion of the panel, a public meeting may be convened in Concord, NH for the parties to respond to questions from the panel. The meeting, if one is convened, shall be open to the public. Appropriate notice of the time and place of the meeting shall be published pursuant to RSA 91-A:2.
6. The cities will pay all fees charged by the peer reviewers. The parties will otherwise bear their own costs associated with participation in the peer review.
7. If the parties agree on an alternate approach, this agreement and the peer review process may be set aside.


CITY OF PORTSMOUTH

By and through its attorneys,

NELSON KINDER + MOSSEAU PC

Dated: 4/1/13

By:


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(603) 647-1800

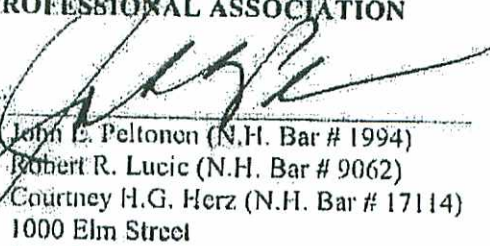
CITY OF DOVER

By and through its attorneys,

**SHEEHAN PHINNEY BASS + GREEN,
PROFESSIONAL ASSOCIATION**

Dated: 3/29/13

By:


John E. Peltonen (N.H. Bar # 1994)
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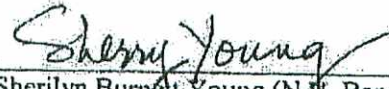
CITY OF ROCHESTER

By and through its attorneys,

RATH YOUNG AND PIGNATELLI, P.C.

Dated: 3/28/13

By:


Sherilyn Burnett Young (N.H. Bar # 2700)
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STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL
SERVICES

Dated: 4/29/2013

By: Thomas A. Benack
Name
Commissioner
Title